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SENATE BILL 1015

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOSEPH J. CARRARO

AN ACT

RELATING TO INSURANCE; PROHIBITING DISCRIMINATION AGAINST  
INSUREDS AND DEPENDENTS BASED ON DISABILITY; PROVIDING FOR  
CONTINUATION OF COVERAGE AFTER LIMITING AGE FOR DISABLED  
DEPENDENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-16-12.1 NMSA 1978 (being Laws 1991,  
Chapter 111, Section 12) is amended to read:

"59A-16-12.1. DISCRIMINATION ON THE BASIS OF DETERIORATION  
IN HEALTH OR DISABILITY--CONVERSION POLICY EQUIVALENCY. --

A. No insurer shall cancel, non-renew or change the  
premiums, benefits or conditions of [~~an individual~~] a health  
insurance policy or health maintenance organization contract as  
to [~~one~~] any insured or dependent solely because of a  
deterioration in the health of that insured or dependent

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1 occurring after the issuance or delivery of the policy or  
2 contract or because of the insured's or any dependent's  
3 disability.

4 B. No insurer shall decline to issue a group health  
5 insurance policy solely on the basis that an otherwise qualified  
6 group includes persons who are disabled.

7 [~~B.~~] C. No conversion of a group health insurance  
8 policy that provides hospital, surgical and medical expense  
9 benefits shall be made to a conversion policy that has not been  
10 approved and found by the superintendent to provide benefits and  
11 conditions closely approximating the coverage of the policy from  
12 which conversion is exercised. "

13 Section 2. Section 59A-22-33 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 455) is amended to read:

15 "59A-22-33. HANDICAPPED CHILDREN--COVERAGE CONTINUED. -- An  
16 individual or group hospital or medical expense insurance policy  
17 delivered or issued for delivery in this state which provides  
18 that coverage of a dependent child of an insured, or of an  
19 employee or other member of the covered group, shall terminate  
20 upon attainment of the limiting age for dependent children  
21 specified in the policy shall also provide, in substance, that  
22 attainment of the limiting age shall not operate to terminate  
23 the coverage of a child while the child is, and continues to be  
24 both incapable of self-sustaining employment, by reason of  
25 mental retardation, [~~or~~] physical handicap or disability, and

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1 chiefly dependent upon the policyholder for support and  
2 maintenance. However, proof of the incapacity and dependency of  
3 the child must be furnished to the insurer by the insured  
4 employee or member within thirty-one [~~(31)~~] days of the child's  
5 attainment of the limiting age and subsequently, as may be  
6 required by the insurer, but not more frequently than annually  
7 after the two-year period following the child's attainment of  
8 the limiting age."

9 Section 3. A new Section 59A-22-41 NMSA 1978 is enacted to  
10 read:

11 "59A-22-41. [NEW MATERIAL] COVERAGE OF DEVELOPMENTAL  
12 DISABILITY THERAPEUTIC SERVICES. --

13 A. Each individual and group health insurance  
14 policy, health maintenance organization contract, nonprofit  
15 health care plan policy and certificate of health insurance  
16 delivered or issued for delivery in this state shall provide  
17 coverage for medically necessary therapeutic services for  
18 treatment of developmental disabilities, without limitation as  
19 to the number or duration of such services.

20 B. Coverage for therapeutic services pursuant to  
21 this section may be subject to deductibles consistent with those  
22 on other benefits under the same policy, contract or  
23 certificate.

24 C. The provisions of this section do not apply to  
25 short-term travel, accident-only or limited or disease-specific

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1 policies.

2 D. As used in this section, "developmental  
3 disabilities" means:

4 (1) a severe chronic disability of a person  
5 that:

6 (a) is attributable to a mental or  
7 physical impairment, including the result from trauma to the  
8 brain, or combination of mental and physical impairments;

9 (b) is manifested before the person  
10 reaches the age of twenty-two years;

11 (c) is expected to continue indefinitely;

12 (d) results in substantial functional  
13 limitations in three or more of the following areas of major  
14 life activities: 1) self-care; 2) receptive and expressive  
15 language; 3) learning; 4) mobility; 5) self-direction; 6)  
16 capacity for independent living; and 7) economic self-  
17 sufficiency; and

18 (e) reflects the person's need for a  
19 combination and sequence of special, interdisciplinary or  
20 generic care treatment or other support and services that are of  
21 life-long or extended duration and are individually planned and  
22 coordinated; or

23 (2) are children, from birth through two years  
24 of age, who are at risk for or have developmental delays as  
25 defined by the department of health and are children eligible

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1 for early intervention services. "

2 Section 4. Section 59A-23-4 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 463, as amended) is amended to read:

4 "59A-23-4. OTHER PROVISIONS APPLICABLE. - -

5 A. No blanket or group health insurance policy or  
6 contract shall contain any provision relative to notice or proof  
7 of loss or the time for paying benefits or the time within which  
8 suit may be brought upon the policy that in the superintendent's  
9 opinion is less favorable to the insured than would be permitted  
10 in the required or optional provisions for individual health  
11 insurance policies as set forth in Chapter 59A, Article 22 NMSA  
12 1978.

13 B. The following provisions of Chapter 59A, Article  
14 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23 NMSA  
15 1978 and blanket and group health insurance contracts:

16 (1) Section 59A-22-1 NMSA 1978, except  
17 Subsection C thereof; and

18 (2) Section 59A-22-32 NMSA 1978.

19 C. The following provisions of Chapter 59A, Article  
20 22 NMSA 1978 shall also apply as to group health insurance  
21 contracts:

22 (1) Section 59A-22-33 NMSA 1978;

23 (2) Section 59A-22-34 NMSA 1978;

24 (3) Section 59A-22-34.1 NMSA 1978;

25 (4) Section 59A-22-35 NMSA 1978;

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- 1 (5) Section 59A-22-36 NMSA 1978;
- 2 (6) Section 59A-22-39 NMSA 1978; [~~and~~]
- 3 (7) Section 59A-22-40 NMSA 1978; and
- 4 (8) Section 59A-22-41 NMSA 1978."

5 Section 5. Section 59A-46-30 NMSA 1978 (being Laws 1993,  
6 Chapter 266, Section 29) is amended to read:

7 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO  
8 OTHER LAWS. --

9 A. The provisions of the Insurance Code other than  
10 Chapter 59A, Article 46 NMSA 1978 shall not apply to health  
11 maintenance organizations except as expressly provided in the  
12 Insurance Code and that article. To the extent reasonable and  
13 not inconsistent with the provisions of that article, the  
14 following articles and provisions of the Insurance Code shall  
15 also apply to health maintenance organizations and their  
16 promoters, sponsors, directors, officers, employees, agents,  
17 solicitors and other representatives [~~and~~]. For the purposes of  
18 such applicability, a health maintenance organization may  
19 therein be referred to as an "insurer":

- 20 (1) Chapter 59A, Article 1 NMSA 1978;
- 21 (2) Chapter 59A, Article 2 NMSA 1978;
- 22 (3) Chapter 59A, Article 3 NMSA 1978;
- 23 (4) Chapter 59A, Article 4 NMSA 1978;
- 24 (5) Subsection C of Section 59A-5-22 NMSA 1978;
- 25 (6) Sections 59A-6-2 through 59A-6-4 and

- 1 59A-6-6 NMSA 1978;
- 2 (7) Chapter 59A, Article 8 NMSA 1978;
- 3 (8) Chapter 59A, Article 10 NMSA 1978;
- 4 (9) Section 59A-12-22 NMSA 1978;
- 5 (10) Chapter 59A, Article 16 NMSA 1978;
- 6 (11) Chapter 59A, Article 18 NMSA 1978;
- 7 (12) Chapter 59A, Article 19 NMSA 1978;
- 8 (13) Section 59A-22-33 NMSA 1978;
- 9 (14) Section 59A-22-41 NMSA 1978;
- 10 [~~(13)~~] (15) Chapter 59A, Article 23B NMSA 1978;
- 11 [~~(14)~~] (16) Sections 59A-34-9 through
- 12 59A-34-13, 59A-34-23, 59A-34-36 and 59A-34-37 NMSA 1978; and
- 13 [~~(15)~~] (17) Chapter 59A, Article 37 NMSA 1978.

14 B. Solicitation of enrollees by a health maintenance  
15 organization granted a certificate of authority, or its  
16 representatives, shall not be construed as violating any  
17 provision of law relating to solicitation or advertising by  
18 health professionals, but health professionals shall be  
19 individually subject to the laws, rules, regulations and ethical  
20 provisions governing their individual professions.

21 C. Any health maintenance organization authorized  
22 under the provisions of the Health Maintenance Organization Law  
23 shall not be deemed to be practicing medicine and shall be  
24 exempt from the provisions of laws relating to the practice of  
25 medicine. "

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1           Section 6.   Section 59A-47-33 NMSA 1978 (being Laws 1984,  
2 Chapter 127, Section 879.32, as amended by Laws 1994, Chapter  
3 64, Section 10 and also by Laws 1994, Chapter 75, Section 34) is  
4 amended to read:

5           "59A-47-33.   OTHER PROVISIONS APPLICABLE. -- The provisions  
6 of the Insurance Code other than Chapter 59A, Article 47 NMSA  
7 1978 shall not apply to health care plans except as expressly  
8 provided in the Insurance Code and that article. To the extent  
9 reasonable and not inconsistent with the provisions of that  
10 article, the following articles and provisions of the Insurance  
11 Code shall also apply to health care plans, their promoters,  
12 sponsors, directors, officers, employees, agents, solicitors and  
13 other representatives; and, for the purposes of such  
14 applicability, a health care plan may therein be referred to as  
15 an "insurer":

- 16           A. Chapter 59A, Article 1 NMSA 1978;
- 17           B. Chapter 59A, Article 2 NMSA 1978;
- 18           C. Chapter 59A, Article 4 NMSA 1978;
- 19           D. Subsection C of Section 59A-5-22 NMSA 1978;
- 20           E. Sections 59A-6-2 through 59A-6-4 and  
21 59A-6-6 NMSA 1978;
- 22           F. Section 59A-7-11 NMSA 1978;
- 23           G. Chapter 59A, Article 8 NMSA 1978;
- 24           H. Chapter 59A, Article 10 NMSA 1978;
- 25           I. Section 59A-12-22 NMSA 1978;

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- 1 J. Chapter 59A, Article 16 NMSA 1978;  
2 K. Chapter 59A, Article 18 NMSA 1978;  
3 L. Chapter 59A, Article 19 NMSA 1978;  
4 M. Subsections B through E of Section  
5 59A-22-5 NMSA 1978;  
6 N. Section 59A-22-33 NMSA 1978;  
7 O. Section 59A-22-41 NMSA 1978;  
8 [~~N.~~] P. Section 59A-22-34.1 NMSA 1978;  
9 [~~Q.~~] Q. Section 59A-22-39 NMSA 1978;  
10 [~~R.~~] R. Section 59A-22-40 NMSA 1978;  
11 [~~S.~~] S. Sections 59A-34-9 through 59A-34-13 [~~NMSA~~  
12 ~~1978~~] and [~~Section~~] 59A-34-23 NMSA 1978;  
13 [~~R.~~] T. Chapter 59A, Article 37 NMSA 1978, except  
14 Section 59A-37-7 NMSA 1978; and  
15 [~~S.~~] U. Section 59A-46-15 NMSA 1978. "